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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,348	12/03/2003	Marion Calmer	USPA0035	4001

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EXAMINER

TORRES, ALICIA M

ART UNIT PAPER NUMBER

3671

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/726,348

Examiner

Alicia M. Torres

Applicant(s)

CALMER, MARION

Art Unit

3671

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

The amendment document filed on 15 August 2005 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:

- ☐ A. Amended paragraph(s) do not include markings.
☐ B. New paragraph(s) should not be underlined.
☐ C. Other _____.

☐ 2. Abstract:

- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
☐ B. Other _____.

☐ 3. Amendments to the drawings:

- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
☐ C. Other _____.

☒ 4. Amendments to the claims:

- ☐ A. A complete listing of all of the claims is not present.
☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
☒ E. Other: The amendments to claims 1, 11 and 22 do not include markings indicating the changes that have been made, as per 37 CFR 1.121 (c)(2), please see the attached pages from the MPEP.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

contain section headings as provided in § 1.77(b), § 1.154(b), or § 1.163(c), amendments to the specification, other than the claims, may be made by submitting:

- (i) A reference to the section heading along with an instruction, which unambiguously identifies the location, to delete that section of the specification and to replace such deleted section with a replacement section; and;
 - (ii) A replacement section with markings to show all changes relative to the previous version of the section. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived.
- (3) *Amendment by substitute specification*. The specification, other than the claims, may also be amended by submitting:
- (i) An instruction to replace the specification; and
 - (ii) A substitute specification in compliance with §§ 1.125(b) and (c).
- (4) *Reinstatement of previously deleted paragraph or section*. A previously deleted paragraph or section may be reinstated only by a subsequent amendment adding the previously deleted paragraph or section.
- (5) *Presentation in subsequent amendment document*. Once a paragraph or section is amended in a first amendment document, the paragraph or section shall not be represented in a subsequent amendment document unless it is amended again or a substitute specification is provided.
- (c) *Claims*. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).
- (1) *Claim listing*. All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of “canceled” or “not entered” may be aggregated into one statement (e.g., Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.
 - (2) *When claim text with markings is required*. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of “currently amended,” and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by

strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of “currently amended,” or “withdrawn” if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as “withdrawn—currently amended.”

- (3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, *i.e.*, without any markings in the presentation of text. The presentation of a clean version of any claim having the status of “original,” “withdrawn” or “previously presented” will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of “withdrawn” or “previously presented.” Any claim added by amendment must be indicated with the status of “new” and presented in clean version, *i.e.*, without any underlining.
- (4) *When claim text shall not be presented; canceling a claim.*
 - (i) No claim text shall be presented for any claim in the claim listing with the status of “canceled” or “not entered.”
 - (ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as “canceled” will constitute an instruction to cancel the claim.
- (5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a “new” claim with a new claim number.
- (d) *Drawings.* One or more application drawings shall be amended in the following manner: Any changes to an application drawing must be in compliance with § 1.84 and must be submitted on a replacement sheet of drawings which shall be an attachment to the amendment document and, in the header, labeled “Replacement Sheet.” Any replacement sheet of drawings shall include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is amended. All changes to the drawing(s) shall be explained, in detail, in either the drawing amendment or remarks section of the amendment paper.
 - (1) A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be included. The marked-up copy must be clearly labeled as “Annotated Marked-up Drawings” and must be presented in the amendment or remarks section that explains the change to the drawings.
 - (2) A marked-up copy of any amended drawing figure, including annotations indicating the changes made, must be provided when required by the examiner.
- (e) *Disclosure consistency.* The disclosure must be amended, when required by the Office, to correct inaccuracies of description and definition, and to secure substantial correspondence between the claims, the remainder of the specification, and the drawings.
- (f) *No new matter.* No amendment may introduce new matter into the disclosure of an application.
- (g) *Exception for examiner's amendments.* Changes to the specification, including